

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

RECEIVED

NOV 27 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

)
)
 Amendment of Section 73.202(b)
 Table of Allotments,
 FM Broadcast Stations
 (Ashland, Coaling, Cordova.
 Decatur, Dora, Hackleburg, Hobson City,
 Holly Pond, Midfield, Sylacauga, Tuscaloosa,
 Alabama; Atlanta, Georgia)

)
)
) MM Docket No. _____
) RM- _____
)
)
)

To: Chief, Audio Division
 Media Bureau

**AMENDMENT TO
 PETITION FOR RULE MAKING
 OF COX RADIO, INC. AND CXR HOLDINGS, INC.**

Kevin F. Reed
 Elizabeth A. M. McFadden
 Nam E. Kim

DOW, LOHNES & ALBERTSON, PLLC
 1200 New Hampshire Avenue, N.W.
 Suite 800
 Washington, D.C. 20036
 (202) 776-2000

November 27, 2002

TABLE OF CONTENTS

	Page
SUMMARY.....	ii
I PROPOSED REALLOTMENT OF CHANNEL 238A TO HOBSON CITY, ALABAMA	3
A. Technical Compliance.	5
B. Hobson City Is an Independent Community For Allotment Purposes	7
1. Signal population coverage.....	9
2. Population and proximity in comparison to Anniston	10
3. No Interdependence	10
a. Hobson City residents consider their community to be separate from Anniston.	10
b. Hobson City has its own local government and elected officials	12
c. Hobson City provides municipal services to its residents	12
d. Hobson City does not have its own ZIP Code or telephone book.....	12
e. Hobson City has many commercial establishments.....	13
f. Hobson City offers its residents employment opportunities.....	13
g. Hobson City has local media outlets.....	13
h. Hobson City businesses can advertise to residents directly.....	13
C. Grant of the Proposal Would Serve the Public Interest	14
II. PROPOSED REALLOTMENT OF CHANNEL 252A TO ASHLAND, ALABAMA.....	14
A. Technical Compliance.	15
B. Ashland is an Independent Community Meriting Local Service.....	16
III. PROPOSED RECLASSIFICATION OF CHANNEL 253 AT ATLANTA, GEORGIA.....	17
IV. CONCLUSION.....	18
V. SUMMARY OF PROPOSED AMENDMENTS TO TABLE OF ALLOTMENTS	19

SUMMARY

By this amendment, Cox Radio, Inc. and its wholly-owned subsidiary CXR Holdings, Inc. (collectively “Cox”) respectfully amend their Petition for Rule Making filed on March 18, 2002, requesting that the Commission institute a rulemaking to amend Section 73.202(b), the FM Table of Allotments (the “Petition”).

In addition to the allotment changes proposed by the Petition, Cox proposes to delete Channel 238A at Ashland, Alabama, and allot Channel 238A to Hobson City, Alabama, for use by WASZ(FM) as Hobson City’s first local FM and first nighttime service and its second local service. To replace the sole local operating service at Ashland, Cox proposes to delete Channel 252A at Sylacauga and allot Channel 252A at Ashland, Alabama, for use by WTRE-FM. Finally, to accommodate the reallocation of Channel 252A from Sylacauga to Ashland, Cox also proposes to reclassify Channel 253 at Atlanta, Georgia, from Class C to Class C and to modify the license of WSB-FM accordingly.

Grant of the Petition, as amended, would provide first local service to the communities of Midfield, Hackleburg, and Coaling; provide first local FM and first nighttime service and second local service to Hobson City; and maintain local service in Holly Pond, Cordova and Ashland. Adoption of Cox’s Petition, as amended, would achieve a preferential arrangement of allotments under the Commission’s allotment priorities. Accordingly, Cox respectfully requests that the Commission institute a rulemaking to amend Section 73.202(b), the FM Table of Allotments, as proposed herein.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments,)	MM Docket No. _____
FM Broadcast Stations)	RM- _____
(Ashland, Coaling, Cordova,)	
Decatur, Dora, Hackleburg, Hobson City,)	
Holly Pond, Midfield, Sylacauga, Tuscaloosa,)	
Alabama; Atlanta, Georgia))	

To: Chief, Audio Division
Media Bureau

**AMENDMENT TO
PETITION FOR RULE MAKING
OF COX RADIO, INC. AND CXR HOLDINGS, INC.**

1. ~~Cox~~ Radio, Inc. and its wholly-owned subsidiary CXR Holdings, Inc. (collectively "**Cox**"), by their attorneys and pursuant to Section 1.420(i) of the Commission's Rules,¹ hereby respectfully amend their Petition for Rule Making filed with the Commission on March 18, 2002 ("Petition"), requesting that the Commission institute a rulemaking to amend Section 73.202(b), the FM Table of Allotments, as proposed herein. By the Petition as amended hereby, Cox proposes a set of interrelated allotments that would provide first local service to three communities and a first local FM service to one community.

2. As set forth in the Petition. Cox proposes to delete Channel 239C1 at Tuscaloosa, Alabama, and allot Channel 239C2 at Midfield, Alabama. for use by WBHJ(FM) as Midfield's

¹ 47 C.F.R. § 1.420(i) (2001)

first local service.’ To accommodate the proposed provision of first local service to Midfield, Cox proposes (a) to reallocate Channel 238A from Holly Pond, Alabama, to Hackleburg, Alabama, for use by WFMH-FM as Hackleburg’s first local service; (b) to replace the local service at Holly Pond by reallocating Channel 245C from Decatur, Alabama, to Holly Pond for use by WRSA(FM); (c) to reallocate Channel 237A from Cordova, Alabama, to Coaling, Alabama, for use by WFFN(FM) as Coaling’s first local service; and (d) to replace the local service at Cordova by reallocating Channel 223A from Dora, Alabama, to Cordova for use by WQOP-FM.

3. In addition to these changes, by this amendment, Cox also proposes to delete Channel 238A at Ashland, Alabama, and allocate Channel 238A to Hobson City, Alabama, for use by WASZ(FM) as Hobson City’s first local FM and first nighttime service and its second local service. To replace the sole local operating service at Ashland, Cox proposes the deletion of Channel 252A at Sylacauga and the allocation of Channel 252A at Ashland, Alabama, for use by WTRB-FM. Finally, the reallocation of Channel 252A from Sylacauga to Ashland will require the reclassification of Channel 253 at Atlanta, Georgia, from Class C to Class CO and the modification of the license of WSB-FM accordingly.³ Cox has obtained the consent of Williams Communications, Inc. (“Williams Communications”), the licensee of affected stations WASZ(FM) and WTRB-FM, for the proposed facilities modifications of these stations. In accordance with the Commission’s policies, Cox pledges to reimburse Williams Communications for its reasonable costs in implementing the requested modifications.

4. As demonstrated herein, these proposed reallocations together with those set forth in the Petition would achieve a preferential arrangement of allocations under the Commission’s

² CXR Holdings, Inc. is the licensee of WBHJ(FM), Tuscaloosa, Alabama.
CXR Holdings, Inc. is the licensee of WSB-FM, Atlanta, Georgia.

allotment priorities and would further the public interest. Grant of the Petition as amended hereby would provide first local service to the communities of Midfield, Hackleburg, and Coaling; provide first local FM and first nighttime service and second local service to Hobson City; and maintain local service in Holly Pond, Cordova and Ashland. Moreover, the proposal would provide Holly Pond with a Class C rather than a Class A station and create a “net” gain in service to 68,300 persons with a net service area loss of 7,800 square kilometers.⁴

I. PROPOSED REALLOTMENT OF CHANNEL 238A TO HOBSON CITY, ALABAMA.

5. Cox proposes the deletion of Channel 238A at Ashland, Alabama, and the allotment of Channel 238A to Hobson City, Alabama, in lieu thereof, and the modification of the license of WASZ(FM) accordingly (the “Hobson City Proposal”). Williams Communications has consented to the modification of WASZ(FM)’s community of license from Ashland to Hobson City and agreed to file an application to implement the changes upon grant of the Petition.⁵ In accordance with the Commission’s policies,⁶ Cox pledges to reimburse Williams Communications for its reasonable costs in implementing the proposed modifications.

6. The Hobson City Proposal squarely meets the Commission’s criteria for grant of a proposed amendment to the FM Table of Allotments. In *Modification of FM and TV Authorizations to Specify a New Community of license*, the Commission stated that it would approve petitions for rule making requesting a change in a station’s community of license without affording other interested parties an opportunity to file competing expressions of interest

⁴ See Exhibit A (Technical Exhibit by du Treil, Lundin & Rackley, Inc. (“Technical Exhibit”)).

A copy of the consent is included in Exhibit B hereto.

⁶ See, e.g., *Bowling Green, Kentucky*, 16 FCC Rcd 4908, ¶ 8 (2001); *Circleville, Ohio*. 8 FCC 2d 159 (1967).

if (i) the proposed channel is mutually exclusive with the existing channel and (ii) the proposed allotment plan would result in a preferential arrangement of allotments under the Commission's allotment priorities.' To determine whether a proposal would result in a preferential arrangement of allotments, the Commission compares the proposed allotment plan and the existing state of allotments for the communities involved based on the FM allotment priorities.'

7. As detailed below, the Hobson City Proposal satisfies the Commission's requirements. The proposed allotment of Channel 238A at Hobson City is mutually exclusive with WASZ(FM)'s present assignment of Channel 238A at Ashland, Alabama.' and a comparison of the proposed and existing allotment plans demonstrates that grant of the proposal would achieve a preferential arrangement of allotments. The Hobson City Proposal would provide Hobson City with its first local FM service, its first nighttime service, its first competitive local service, and its second local service. Moreover, as explained below, Ashland would maintain the same number of local services pursuant to the reallocation of Channel **252A** from Sylacauga to Ashland for use by WTRB-FM. On the other hand, retention of the allotment at Ashland would provide Ashland with the same number of local services as the Hobson City

⁷ Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, *Report and Order*, 4 FCC Rcd 4870, ¶¶ 22, 25 (1989) ("*Community of License R&O*"), *recon grunted in part*, 5 FCC Rcd 7094 (1990) ("*Community of License MO&O*") ("[W]e will compare the proposed allotment plan to the existing state of allotments for the communities involved. If adoption of the proposed allotment plan would result in a net service benefit for the communities involved (that is, if the **plan** would result in a preferential arrangement of allotments), we will adopt the proposal."). See 47 C.F.R. § 1.420(i).

⁸ See *Community of License R&O*, 4 FCC Rcd 4870, *Community of License MO&O*, 5 FCC Rcd 7094; Revision of FM Assignment Policies and Procedures, *Second Report and Order*, 90 FCC 2d 88, ¶ 7 (1982). These priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. The second and third priorities are given equal weight by the Commission.

⁴ See Technical Exhibit.

Proposal but would not provide Hobson City with a local FM service or nighttime service. Thus, the proposed allotment plan is preferable to the current state of allotments and would serve the public interest.

A. Technical Compliance,

8. The Hobson City Proposal complies with the Commission's technical requirements.¹⁰ Operation of WASZ(FM) on Channel 238A from the proposed reference site would provide the requisite city grade coverage to Hobson City and would comply with the minimum distance separation requirements, with the exception of WFMH-FM on Channel 238A at Holly Pond, Alabama." The Petition, however, proposes to modify this allotment and thus, the Hobson City Proposal will comply with the minimum spacing requirements."

9. The Hobson City Proposal would result in a service gain over *an* area of 1,130 square kilometers containing 87,500 persons and a service loss over an area of 1,130 square kilometers containing 6,300 persons.¹³ Most of the loss area would have five or more aural services remaining" and thus is considered well-served. A cumulative portion of the loss area comprising an area of 330 square kilometers containing 1,800 persons would have four remaining aural services and a cumulative portion of the loss area comprising an area of 410 square kilometers containing 3,400 persons would have three remaining aural services.¹⁵ No persons in the loss area will receive less than three services.¹⁶ The Commission has approved

¹⁰ See *id.*

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See *id.*

requests to amend the FM Table of Allotments in circumstances where a portion of the loss area is served by as few as even two services.” Moreover, the proposed allotment of Channel 252A to Ashland discussed in detail below will serve 88% of the loss area and 93% of the loss population from the Hobson City Proposal.¹⁸ The proposed Channel 252A facility at Ashland will serve 94% of the Channel 238A loss area and 97% of the loss population that would have four remaining services and 94% of the Channel 238A loss area and 88% of the loss population that would have three remaining services.¹⁹

10. As proposed, the Channel 238A 60 dBu service area would contain 113,000 persons over an area of 2,460 square kilometers as compared to the existing Channel 238A 60 dBu service area containing 31,800 persons over an area of 2,460 square kilometers.”

11. Daytime-only AM station WHOG on 1120kHz is the only service assigned to Hobson City.” Accordingly, grant of the Petition would provide Hobson City with its first local FM service, its first full-time aural service, and its first competitive service, with no net loss in services assigned to Ashland.

¹⁷ See, e.g., *Clinton and Okarche, Oklahoma*, 14 FCC Rcd 3554, ¶ 3 (1999) (granting the proposed reallocation where there is a loss of service to 54,423 persons and all but 10,369 persons would continue to receive at least five fulltime aural services, the majority of the remaining 10,369 persons would receive at least four services, and 232 persons would receive only two full time aural services); *Belzoni and Tchula, Mississippi*, 13 FCC Rcd 20277, ¶ 5 (1998) (granting the proposed reallocation where all of the loss area is served by at least three services, nearly all of the loss area is served by no less than four services, and most of the area is served by at least five aural services); *Nowata and Collinsville, Oklahoma*, 10 FCC Rcd 7159, ¶ 9 (1995) (“the vast majority of the population (5,656) persons affected by the change in community will remain well served with at least five reception services and no population will receive less than four services.”).

¹⁸ See Technical Exhibit.

¹⁹ See *id.*

²⁰ See *id.*

²¹ See *id.*

B. Hobson City Is an Independent Community For Allotment Purposes.

12. Hobson City qualifies as a community and warrants a second local service preference. The Commission defines communities as “geographically identifiable population groupings”²² and considers whether the social, economic, and cultural organizations located in the community identify themselves with the community.²³ The Commission has stated that the requirement of community status is generally satisfied if the proposed community is incorporated and listed in the U.S. Census.²⁴

13. Because Hobson City already has a local AM service, the Commission has previously determined that Hobson City is a community meriting its own local radio service. Hobson City clearly possesses all the indicia of a community for FM allotment purposes. Hobson City is incorporated²⁵ with a population of 878 persons according to the 2000 U.S. Census.²⁶ Hobson City has its own local government led by elected Mayor Robert A. Pyles and five part-time city council members. Hobson City has a Housing Authority that manages and maintains about sixty units, and one of the council members oversees a street maintenance service.²⁷ Hobson City has a police department staffed by three officers.” Hobson City has a

²² *Strattanville and Farmington Township, Pennsylvania*, 15 FCC Rcd 23848, ¶ 5 (2000).

²³ See, e.g., *Strattanville and Furniington Township, Pennsylvania*, 15 FCC Rcd 23848, ¶ 5 (2000); *Dillsboro and Rosman, North Carolina*, 15 FCC Rcd 25562, (2000).

²⁴ See, e.g., *Brookline, Missouri*, 10 FCC Rcd 13038, ¶ 4 (1995) (“While ‘incorporation is not a prerequisite [for community status], and while a community need not have a clearly delineated area and population, it is no doubt correct to state that in most cases a community is a city, town, village, or other political subdivision’”); *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, ¶ 34 (1982) (stating that listing in the census is sufficient to demonstrate community status).

²⁵ See 2000 *Rund McNally Commercial Atlas and Marketing Guide*

²⁶ See Exhibit C (U.S. Census Bureau <<http://www.census.gov>>).

²⁷ Conversation with city clerk of Hobson City,

senior citizens' center and library and is planning to construct a new senior citizens' center and library facilities.” Hobson City has at least six churches, including the United Christian Assembly of God, Rising Star United Methodist Church, and the Holiness Church.³⁰ Hobson City has many business establishments such as the I-20 Bingo Parlor, Commercial Printing, A W Gray Used Auto Parts, 4-Sho Sound & Video, Young's Beauty Salon, Ross Handy Mart, Inc., and the Williams Barber Shop.³¹ Hobson City has a local charity, Meals on Wheels,³² and community organizations and associations including a youth football association and a youth basketball association.”

14. Hobson City is partially located in the Anniston Urbanized Area; the proposed 70 dBu contour of Channel **238A** at Hobson City would encompass 28% of the Anniston Urbanized Area and 25% of the Anniston Urbanized Area population.³⁴ A *Huntington/Tuck* analysis, however, is not required here because the Hobson City Proposal is proposing a second local service. When a petitioner seeks a **first** local service preference, the Commission requires a *Huntington/Tuck* analysis if the proposed allotment would cover 50% or more of an urbanized area with a 70 dBu signal or if the petitioner proposes to allot a station to a community located

...continued

²⁸ See Exhibit C (Law Enforcement Employee Data 2000 <www.acjic.state.al.us/cia00/00d-LawEnforcementEmployeeData.htm>).

²⁹ See Exhibit C (Amy Sieckmann, “Hobson City Plans New Senior Center, Library,” *Anniston Star*, May 12, 2002).

³⁰ See Exhibit C (Addresses for Hobson City Churches, Associations, and Businesses)

³¹ See *id.*

³² See Exhibit C (Charity Guide <www.charity-charities.org/charities/AL/HobsonCity.html>).

³³ See Exhibit C (Addresses for Hobson City Churches, Associations, and Businesses).

³⁴ See Technical Exhibit.

within an urbanized area.³⁵ If the petitioner proposes a second local service, the Commission does not require a *Huntington/Tuck* analysis because the analysis only applies to petitioners seeking a first local service preference.”³⁶ Nevertheless, even if the Commission were to require a *Huntington/Tuck* analysis in this case, the analysis would demonstrate that Hobson City clearly is independent of the Anniston Urbanized Area.

1. Signal population coverage.

15. The existing WASZ(FM) operations on Channel 238A at Ashland do not encompass an urbanized area with a 70 dBu signal.” The proposed allotment of Channel 238A at Hobson City would encompass 28% of the Anniston Urbanized Area and 25% of the Anniston Urbanized Area population with a 70 dBu signal.³⁸ Given that the *Huntington/Tuck* analysis is triggered when the proposed allotment would cover more than 50% of an urbanized area with a 70 dBu signal, the proposed allotment at Hobson City will serve significantly less of the urbanized area than proposed allotments that trigger a *Huntington/Tuck* analysis based on their coverage of the urbanized area.

³⁵ See, e.g., *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352, ¶ 12 (1995); *RKO General, Inc.*, 5 FCC Rcd 3222 (1990); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

³⁶ See, e.g., *Tulahoma, Tennessee, and Madison, Alabama*, 15 FCC Rcd 6189, ¶ 6 (2000) (“Although Madison is located within the Huntsville, Alabama Urbanized Area, a Tuck analysis is not necessary because petitioner does not seek a first local service preference.”); *Lockport and Amherst, New York*, 14 FCC Rcd 15438, ¶ 6 (1999); *RKO General, Inc.*, 5 FCC Rcd 3222 (1990); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

³⁷ See Technical Exhibit.

³⁸ See *id.*

2. Population and proximity in comparison to Anniston.

16. According to the 2000 Census, Hobson City has a population of 878 persons,³⁹ which represents approximately 3.6% of the population of Anniston.⁴⁰ As to proximity, Hobson City is located four miles from Anniston.⁴¹ Nonetheless, Hobson City is a community separate and apart from Anniston, as demonstrated below. Moreover, the Commission has granted channel change petitions where the proposed community's population as a percentage of that of the central city was considerably smaller⁴² and where the community was located the same distance from the center city of the urbanized area.⁴³

17. **A** *Huntington/Tuck* analysis confirms that Hobson City is sufficiently independent of the Anniston Urbanized Area to justify a second local service preference.

3. No Interdependence.

a. Hobson City residents consider their community to be separate from Anniston.

18. The residents of Hobson City consider themselves part of their own community separate from Anniston. Hobson City is an incorporated city⁴⁴ located in Calhoun County. As detailed below, Hobson City has its own local government, businesses, and local organizations. Hobson City also has at least six churches, including the United Christian Assembly of God,

³⁹ *See id*

⁴⁰ Anniston's population is 24,276 according to the 2000 Census. *See* Exhibit C (U.S. Census <www.census.gov>).

⁴¹ *See* Exhibit C (Distance data derived from <www.indo.com/cgi-bin/dist?>).

⁴² *See, e.g., Ada, Newcastle und Watonga, Oklahoma*, 11 FCC Rcd 16896 (1996) (finding Newcastle independent of Oklahoma City despite population equal to 0.9% of that of central city).

⁴³ *See, e.g., Mullins und Briarcliffe Acres, South Carolina*, 14 FCC Rcd 10516 (1999) (finding Briarcliffe independent of Myrtle Beach Urbanized Area despite four mile separation).

⁴⁴ *See* 2000 *Rand McNally Commercial Atlas and Marketing Guide*.

Rising Star United Methodist Church, and the Holiness Church,⁴⁵ and a local chanty, Meals on Wheels.⁴⁶ In addition, Hobson City currently has a senior citizens' center and library and is planning to construct a new 3,300 square foot senior citizens' center and library building for use by its residents.⁴⁷ Hobson City also has community organizations and associations including a youth football association and a youth basketball association.⁴⁸

19. Hobson City also offers its residents local community events, which demonstrate the city's independence and individual spirit. This year, the Hobson City Police Department sponsored its first Ride and Thump contest and awarded trophies to the best car, the best truck, and the best car or truck sound system.⁴⁹ The city even set aside its noise ordinance for the parking lot that was the site of the sound system contest. The money raised from the contest was given to the Hobson City general fund, and the event was "a way to show Hobson City is a safe place for the whole family to have a fun time for the weekend." The local government, businesses, and community spirit demonstrate that Hobson City views itself as (and is) its own community independent of Anniston

⁴⁵ See Exhibit C (Addresses for Hobson City Churches, Associations, and Businesses).

⁴⁶ See Exhibit C (Chanty Guide <www.charity-charities.org/charities/AL/HobsonCity.html>).

⁴⁷ See Exhibit C (Amy Sieckmann, "Hobson City Plans New Senior Center, Library," *Anniston Star*, May 12, 2002).

⁴⁸ See Exhibit C (Addresses for Hobson City Churches, Associations, and Businesses).

⁴⁹ See Exhibit C (Amy Sieckmann, "Like Cars? Head to Hobson City Saturday," *Anniston Star*, **Aug.** 30, 2002).

⁵⁰ See *id.*

b. Hobson City has its own local government and elected officials.

20. Hobson City's local government *is* led by elected Mayor Robert A. Pyles⁵¹ and five part-time city council members." Hobson City also has a Housing Authority that manages and maintains about sixty units and one of its council members oversees a street maintenance service *for* the community.⁵³

c. Hobson City provides municipal services to its residents.

21. Hobson City has a police department staffed by three officers. Hobson City also has a Housing Authority that manages and maintains about 60 units and a council member oversees a street maintenance service. **As** mentioned, Hobson City currently has a senior citizens' center and library and is planning to construct new facilities. Hobson City also levies a sales tax.⁵⁴

d. Hobson City does not have own ZIP Code or telephone book.

22. Hobson City does not have its own ZIP Code or telephone book. This factor, standing alone, however, is not dispositive of Hobson City's independence. The Commission considers "a community as independent when a majority of the Tuck factors demonstrate that the community is distinct from the urbanized area"⁵⁵ and has found a community independent even

⁵¹ The Mayor is a part-time position.

⁵² Conversation with city clerk of Hobson City.

⁵³ *Id.*

⁵⁴ See Exhibit C (Alabama Department of Revenue <www.ador.state.al.us/salestax/sales/salesindex.html>).

⁵⁵ See, e.g., *St. Augustine and Neptune Beach, Florida*, DA 01-2487, MM Docket No. 01-101, RM-10097 (Oct. 26, 2001); *Parker and St. Joe, Florida*, 11 FCC Rcd 1095 (1996).

when it has not had its own zip code or telephone book.⁵⁶ Given that the majority of the eight *Tuck* factors weigh in favor of Hobson City's independence from Anniston, Hobson City's lack of its own zip code or telephone book is not significant.

e. Hobson City has many commercial establishments.

23. Hobson City has many commercial establishments such as the 1-20 Bingo Parlor, Commercial Printing, A W Gray Used Auto Parts, 4-Sho Sound & Video, Young's Beauty Salon, Ross Handy Mart, Inc., and the Williams Barber Shop."

f. Hobson City offers its residents employment opportunities.

24. Hobson City residents do not need to rely on the Anniston urbanized area for employment. According to the 1990 Census, 373 Hobson City residents are workers age 16 and over, and of these, only 117 (34.7%) work in Anniston.⁵⁸

g. Hobson City has local media outlets.

25. Hobson City has its own local radio station, WHOG(AM), and therefore relies on local media outlets outside of Anniston. Many of the churches in Hobson City broadcast services on WHOG(AM) on Sundays, and city council members often conduct community information programs on the station.

h. Hobson City businesses can advertise to residents directly.

26. Hobson City businesses can (and do) advertise to residents directly by purchasing advertising on WHOG(AM). The presence of the media outlet demonstrates that Hobson City residents can reach Hobson City residents without utilizing the Anniston advertising market.

⁵⁶ See, e.g. *D'Iberville and Wiggins, Mississippi*, 10 FCC Rcd 10796 (1995) (finding D'Iberville to be independent of Biloxi-Gulfport Urbanized Area (according to current United States Postal Service records, D'Iberville does not have its own zip code)).

⁵⁷ See Exhibit C (Addresses for Hobson City Churches, Associations, and Businesses).

⁵⁸ See Exhibit C (U.S. Census Bureau <www.census.gov>)

27. Based on the foregoing analysis, Hobson City satisfies the majority of the *Huntington/Tuck* factors demonstrating its independence of the Anniston Urbanized Area.

C. Grant of the Proposal Would Serve the Public Interest.

28. A comparison of the proposed and existing allotment plans demonstrates that grant of the proposal would achieve a preferential arrangement of allotments. Hobson City currently is served by daytime-only AM station, WHOG(AM). The Hobson City Proposal would provide Hobson City with its second local service and invoke Priority 4, public interest matters. Grant of the proposal would serve the public interest by providing Hobson City with its first local FM service, its first full-time and nighttime service, and its first competitive local service. Ashland also would maintain the same number of local services pursuant to the reallocation of Channel 252A from Sylacauga to Ashland for use by WTRB-FM. On the other hand, retention of the allotment at Ashland would maintain the same number of local services in Ashland but Hobson City would remain without a FM or nighttime service.

29. In evaluating reallocation proposals, the Commission has approved proposals based on the public interest benefits of providing a second local service and first full time and first local FM service to a community.⁵⁹ Accordingly, grant of the Hobson City Proposal would achieve a preferential arrangement of allotments and serve the public interest.

II. PROPOSED REALLOCATION OF CHANNEL 252A TO ASHLAND, ALABAMA.

30. The community of Ashland, Alabama, currently is assigned two FM allotments, Channel 238A, occupied by WASZ(FM), and Channel 264A, which is a vacant allotment.⁶⁰ Cox proposes to replace the sole local operating service at Ashland currently provided by Channel

⁵⁹ See *Temple and Taylor, Texas*, 12 FCC Rcd 13755 (1997); *Callahan, Florida. and Si. Marys, Georgia*, 6 FCC Rcd 7564 (1991).

⁶⁰ See 47 C.F.R. § 73.202(b) (2001).

238A by reallocating Channel 252A from Sylacauga to Ashland for use by WTRB-FM (the “Ashland Proposal”). Williams Communications, the licensee of WTRB-FM, has consented to the modification of WTRB-FM’s community of license from Sylacauga to Ashland and agreed to file an application to implement the change upon grant of the Petition.” In accordance with the Commission’s policies, Cox pledges to reimburse Williams Communications for its reasonable costs in implementing the channel substitution.

31. As required by the Commission’s rules, the proposed allotment of Channel 252A at Ashland is mutually exclusive with WTRB-FM’s present assignment of Channel 252A at Sylacauga, Alabama” and would achieve a preferential arrangement of allotments. The reallocation of Channel 252A to Ashland would replace Ashland’s sole local operating service and the station’s current city of license, Sylacauga, would remain served by WYEA(AM) and WFEB(AM).

A. Technical Compliance.

32. The Ashland Proposal complies with the Commission’s technical requirements.” Operation from the proposed site would provide the requisite city grade coverage to Ashland and would comply with the minimum distance separation requirements with the exception of WSB-FM on Channel 253C at Atlanta, Georgia. Cox, however, proposes to reclassify Channel 253 from Class C to Class CO, as discussed below, and thus the Ashland Proposal will comply with the minimum spacing requirements.⁶⁴

⁶¹ A copy of the consent is included as Exhibit D

⁶² See Technical Exhibit.

⁶³ See *id.*

⁶⁴ See *id.*

33. The Ashland Proposal would result in a service gain over an area of 1,700 square kilometers containing 28,500 persons and a service loss over an area of 1,700 square kilometers containing 51,500 persons.⁶⁵ Most of the loss area would have five or more aural services remaining“ and thus is considered well-served. A portion of the loss area comprising an area of 30 square kilometers containing 500 persons would have two remaining aural services. These figures comprise 2% of the loss area and 1% of the loss population, respectively. The Commission has approved requests to amend the FM Table of Allotments in circumstances where a portion of the loss area is served by as few as two services.⁶⁷

34. As proposed, the Channel 252A 60 dBu service area would contain 34,000 persons over an area of 2,460 square kilometers as compared to the existing Channel 252A 60 dBu service area containing 57,500 persons over an area of 2,460 square kilometers.⁶⁸

B. Ashland is an Independent Community Meriting Local Service.

35. Because Ashland already has a local operating service and a vacant channel allotment on Channel 264A, the Commission has previously determined that Ashland merits its

⁶⁵ *See id.*

⁶⁶ *See id.*

⁶⁷ *See, e.g., Clinton and Okarche, Oklahoma*, 14 FCC Rcd 3554, ¶ 3 (1999) (granting the proposed reallocation where there is a loss of service to 54,423 persons and all but 10,369 persons would continue to receive at least five fulltime aural services, the majority of the remaining 10,369 persons would receive at least four services, and 232 persons would receive only two full time aural services); *Belzoni und Tchulu, Mississippi*, 13 FCC Rcd 20277, ¶ 5 (1998) (granting the proposed reallocation where all of the loss area is served by at least three services, nearly all of the loss area is served by no less than four services, and most of the area is served by at least five aural services); *Nowata and Collinsville, Oklahoma*, 10 FCC Rcd 7159, ¶ 9 (1995) (“the vast majority of the population (5,656) persons affected by the change in community will remain well served with at least five reception services and no population will receive less than four services.”).

⁶⁸ *See Technical Exhibit.*

own local radio service.⁶⁹ Ashland is not located in any urbanized area nor will WTRB-FM's proposed 70 dBu contour cover any portion of an urbanized area. Accordingly, a *Huntington/Tuck* analysis demonstrating that Ashland is independent of an urbanized area is not required." Grant of the proposal would maintain local aural service to the residents of Ashland and achieve a preferential arrangement of allotments.

111. PROPOSED RECLASSIFICATION OF CHANNEL 253 AT ATLANTA, GEORGIA.

36. To accommodate the replacement of the local service to Ashland, and pursuant to Note 2 of Section 1.420(g) of the Commission's Rules," Cox proposes to reclassify Channel 253C at Atlanta to Channel 253C0 and to modify the license of WSB-FM accordingly (the "Atlanta Proposal"). No other change in this allotment is proposed. Cox is the licensee of WSB-FM, and upon grant of the Petition will file an application if necessary to implement this change.

37. The Atlanta Proposal complies with the Commission's technical requirements.⁷² Operation of WSB-FM on Channel 253C0 from the proposed reference site would continue to provide the requisite city grade coverage to Atlanta and continue to comply with the minimum distance separation requirements.⁷³

⁶⁹ *Anniston and Ashland, Alabama, and College Park, Covington, Milledgeville, and Social Circle, Georgia*, 15 FCC Rcd 9971, (April 28, 2000) (allotting Channel 264A to Ashland, Alabama); *Eatonton, Georgia, et al.*, 8 FCC Rcd 4938 (1993) (substituting Channel 238A for Channel 237A at Ashland, Alabama); *Lineville and Roanoke, Alabama, et al.*, 26 FCC 2d 448, (1970) (reallotting Channel 237A from Roanoke, **Alabama**, to Ashland, Alabama).

⁷⁰ *Tuck*; see, e.g., *Headland, Alabama, and Chattahoochee, Florida*, 10FCC Rcd 10352, ¶ 11 (1995).

⁷¹ 47 C.F.R. § 1.420(g), Note 2 (2001).

⁷² See Technical Exhibit

⁷³ See *id.*

38. The reclassification of Channel 253 at Atlanta will take place at WSB-FM's existing transmitter site. Thus, no gain or loss areas will be created. Reclassified to Channel 253C0, WSB-FM's 60 dBu service area would maintain service to 4,170,000 persons in an area of 16,730 kilometers.

IV. CONCLUSION

39. The Petition as amended hereby presents a set of interrelated allotments that would achieve a preferential arrangement of allotments as compared with the current allotment scheme. The Commission has stated, "If adoption of the proposed allotment plan would result in a net service benefit for the communities involved (that is, if the plan would result in a preferential arrangement of allotments), we will adopt the proposal."⁷⁴

40. Grant of the Petition would provide Midfield, Hackleburg, and Coaling with a first local service, provide Hobson City with its first local FM and nighttime service, provide Holly Pond, Cordova, and Ashland with a replacement local service, and leave Decatur, Dora, Tuscaloosa and Sylacauga with at least one remaining local service. Moreover, the Petition would replace a Class A station with a superior Class C station in Holly Pond and provide a "net" gain in service to 68,300 persons. In contrast, the existing set of allotments only provides local service to Holly Pond, Cordova and Ashland, provides Decatur, Dora, Tuscaloosa and Sylacauga with more than one local service, does not provide a local service to Midfield, Hackleburg, and Coaling, and does not provide a local FM and nighttime service to Hobson City. Grant of the Petition would result in a "net gain" of first local service to three communities and first local FM service to one community without loss of local service to any of the other

⁷⁴ *Community of License R&O*, 4 FCC Rcd 4870, ¶¶ 22, 25; *Community of License MO&O* 5 FCC Rcd 7094.

communities involved. Accordingly, examination of the Petition according to the FM allotment priorities and resulting public interest benefits clearly weighs in favor of granting the Petition.

V. SUMMARY OF PROPOSED AMENDMENTS TO TABLE OF ALLOTMENTS.

41. In light of the foregoing, the Commission should issue a *Notice of Proposed Rule Making* proposing to implement the following amendments to the FM Table of Allotments:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Ashland, Alabama	238A, 264A	252A , 264A
Coaling, Alabama	---	237A
Cordova, Alabama	237A	223A
Dccatur, Alabama	245C, 271C1	271C1
Dora. Alabama	223A	---
		(continues to be served by WPKY(AM))
Hackleburg, Alabama	---	238A
Hobson City, Alabama	---	238A
Holly Pond, Alabama	238A	245C
Midfield, Alabama	---	239C2
Sylacauga, Alabama	252A	---
		(continues to be served by WYEA(AM) and WFEB(AM))
Tuscaloosa, Alabama	225C1, 239C1, 288A	225C1, 288A
Atlanta, Georgia	225C1, 235C1, 241C, 253C, 259C, 277C	225C1, 235C1, 241C, 253C0 , 259C, 277C

Respectfully submitted,

COX RADIO, INC.
CXR HOLDINGS, INC.

By: _____

Kevin F. Reed

Elizabeth A. M. McFadden

Nam E. Kim

Their Attorneys

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W., Suite 800
Washington, D.C. 20036
(202) 776-2000

November 27, 2002

CERTIFICATE OF SERVICE

I, Geraldine D. Taylor, a secretary at Dow, Lohnes & Albertson, PLLC, hereby certify that a true and correct copy of the foregoing "Amendment to Petition for Rule Making of Cox Radio, Inc. and CXR Holdings, Inc." was sent on this 27th day of November, 2002, via first-class United States mail, postage pre-paid, to the following:

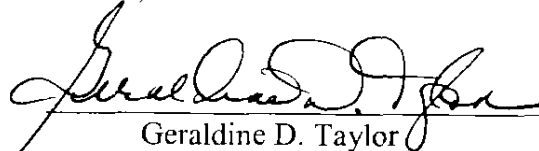
* Mr. John A. Karousos
Federal Communications Commission
Media Bureau
Audio Division
445 12th Street, S.W.
Room 3-A266
Washington, DC 20554

Ms. Penelope Nielsen
President
NCA, Inc.
287 Telephone Tower Road
Lacey's Springs, AL 35754

Mr. Houston Pearce
New Century Radio, Inc.
142 Skyland Boulevard
Tuscaloosa, AL 35405

Mr. Clark Jones
Voice of Cullman, L.L.C.
Eddins Broadcasting Co., Inc
18 Col. Winstead Drive
Brentwood, TN 37037

Walton E. Williams, Jr.
Williams Communications, Inc.
P.O. Box 788
Centre, AL 35983


Geraldine D. Taylor

* Mr. Barthen Gorman
Federal Communications Commission
Media Bureau
Audio Division
445 12th Street, S.W.
Room 3-A224
Washington, DC 20554

Larry D. Perry, Esq.
11464 Saga Lane
Knoxville, TN 37931
(Counsel for NCA, Inc.)

Erwin G. Krasnow, Esq.
Shook, Hardy & Bacon LLP
600 14th Street, N.W.
Suite 800
Washington, D.C. 20005
(Counsel for New Century Radio, Inc.)

Steven A. Benefield, Esq.
Christian & Small, LLP
505 North 20th Street
Suite 1800
Birmingham, AL 3520
(Counsel for Voice of Cullman, L.L.C. and
Eddins Broadcasting, Co., Inc.)

Chris Williams
Queen of Peace Radio, Inc.
391 14th Avenue South
Jacksonville Beach, Florida 32250

* Denotes hand delivery